

HARSHADA H. SAWANT
(P.A.)

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO.182 OF 2025

Mauzam Salim Khan

.. Applicant

Versus

The State of Maharashtra

.. Respondent

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- Mr. N. M. Nadar, Advocate for Applicant.
- Ms. Mahalakshmi Ganpathy, APP for Respondent – State of Maharashtra.
- Mr. Shivaji D. Savale, Police Sub-Inspector, Goregaon Police Station.

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CORAM : MILIND N. JADHAV, J.

DATE : JANUARY 21, 2025

P.C.:

- 1.** Heard Mr. Nadar, learned Advocate for Applicant and Ms. Ganpathy, learned APP for Respondent – State of Maharashtra.
- 2.** This is an Application under Section 438 of Code of Criminal Procedure, 1973 (for short '**Cr.P.C.**') seeking Anticipatory Bail in connection with C.R. No.745 of 2024 registered with Goregaon Police Station under Sections 406 and 420 of Indian Penal Code, 1860 (for short '**IPC**').
- 3.** The complaint of the Complainant as seen from the First Information Report (for short '**FIR**') is that he was put in possession of premises by Applicant on the basis of Agreement between the parties wherein the Complainant had paid an amount of Rs.13,00,000/- as

heavy deposit being accountable for period of 36 months stay in the subject premises. Agreement between the parties has also been registered incidentally and appended to the Application.

4. Since the said premises did not have adequate supply of water, Complainant desired to exit and leave the premises. When Complainant expressed his wish to the Applicant and asked to him to return the heavy deposit amount the Applicant did not do so which compelled the Complainant to file the police complaint under Sections 406 and 420 of IPC.

5. This is one more case before me which is nothing but an arm twisting tactics employed by Complainant. In the first instance, concept of heavy deposit amount is not known to the civil law in so far as immovable properties are concerned. Be that as it may, the rights of the parties are governed by the leave and license Agreement which has been registered by them. If that be so, it forms a mutual contract and does not entitle the Complainant to approach the criminal Court. Complainant has chosen to do so. He does not stop here. In the Police Station, Applicant approaches the Investigating Officer and in presence of Investigating Officer an amount of Rs.3,00,000/- is accepted by Complainant as part payment of the heavy deposit amount.

6. Ms. Ganpathy after taking instructions from Investigating Officer has informed the Court that Complainant stayed in premises for

almost one year. If that be the case, Complainant cannot use force of criminal action in trying to get the entire money back. Perusal of the leave and license agreement clearly shows that Complainant has not adhered to obligations which are stated in the said leave and license Agreement of giving one month advance notice. Such Complainant cannot be assisted and helped by the Court at all. Nevertheless Complainant has already accepted an amount of Rs.3,00,000/- and Applicant has shown his *bonafides* to pay back the outstanding amount to the Complainant, I am inclined to grant the present Application.

7. Applicant has shown his *bonafides* by coming with a Demand Draft of Rs.3,00,000/- dated 08.01.2025 which he would submit that he would deposit with the Investigating Officer. He is permitted to do so. It shall be open to Applicant to reduce the amount of the so called heavy deposit which is payable to Complainant, if he so desires for the period which Complainant has stayed in the premises. The custodial interrogation of the Applicant is not required in such matter.

8. In that view of the matter, Applicant is granted pre-arrest bail on the following terms and conditions:-

ORDER

- (i) In the event of the arrest, the Applicant be enlarged on bail on furnishing P. R. Bond in the sum of Rs. 5,000/-

with one or two sureties in the like amount;

- (ii) Applicant shall not tamper or attempt to influence the complainant, witnesses or any person concerned with the case;
- (iii) Applicant shall attend the Police Station on the first Monday of every month between 10.00 a. m. and 12.00 noon until the Charge-sheet is filed and as and when called for by the investigating officer thereafter;
- (iv) Applicant shall inform his latest place of residence and mobile contact number immediately after being released and/or change of residence or mobile details, if any, from time to time to the Court seized of the matter and to the Investigating Officer of the concerned Police Station;
- (v) If there is a breach of any of the aforesaid conditions, the prosecution shall be at liberty to seek cancellation of the Applicant's bail.

9. It is made clear that the observations made herein are *prima facie* and are confined to this Application and the learned Judge to decide the case on its own merits, uninfluenced by the observations made herein.

10. Application is allowed in the aforesaid terms and is accordingly disposed of.

11. All concerned to act on the authenticated copy of this order.

H. H. SAWANT

[MILIND N. JADHAV, J.]

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